

Assembly Bill No. 2305

CHAPTER 423

An act to amend Section 7125 of the Business and Professions Code, and to amend Section 11665 of the Insurance Code, relating to contractors.

[Approved by Governor September 28, 2010. Filed with
Secretary of State September 28, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2305, Knight. Contractors: workers' compensation insurance coverage.

(1) Existing law requires private employers to secure the payment of compensation by obtaining and maintaining workers' compensation insurance or to self-insure as an individual employer or as one employer in a group of employers. The Contractors' State License Law requires every licensed contractor to have on file at all times with the Contractors' State License Board a current and valid Certificate of Workers' Compensation Insurance or Certification of Self-Insurance, or a statement certifying that he or she has no employees and is not required to obtain or maintain workers' compensation insurance coverage. Existing law, until January 1, 2011, requires a contractor with a C-39 roofing classification to obtain and maintain workers' compensation insurance even if he or she has no employees. Failure to comply with this requirement results in the automatic suspension of the license. However, with respect to a license that was active on January 1, 2007, and included a C-39 roofing classification, existing law, until January 1, 2011, requires the registrar of contractors, in lieu of suspending the license, to remove the C-39 roofing classification from the license if the contractor does not have workers' compensation insurance coverage.

This bill would extend the operation of those provisions until January 1, 2013, with respect to a license that is active on January 1, 2011, with a C-39 roofing classification. The bill would require the suspension of any license that, after January 1, 2011, is active and has had the C-39 roofing classification removed, if the licensee is found by the registrar of contractors to have employees and to lack a valid Certificate of Workers' Compensation Insurance or Certification of Self-Insurance.

(2) Existing law requires an insurer who issues a workers' compensation insurance policy to a roofing contractor holding a C-39 license from the Contractors' State License Board to perform an annual payroll audit for the contractor. Existing law requires the Insurance Commissioner to direct the rating organization designated as his or her statistical agent to compile pertinent statistical data on those holding C-39 licenses on an annual basis and to provide a report to the commissioner each year. Existing law provides that these provisions are inoperative and repealed on January 1, 2011.

This bill would extend the operation of these provisions until January 1, 2013. The bill would require the report provided to the commissioner each year to also be provided to the Legislature, as specified.

The people of the State of California do enact as follows:

SECTION 1. Section 7125 of the Business and Professions Code, as amended by Section 1 of Chapter 38 of the Statutes of 2006, is amended to read:

7125. (a) Except as provided in subdivision (b), the board shall require as a condition precedent to the issuance, reinstatement, reactivation, renewal, or continued maintenance of a license, that the applicant or licensee have on file at all times a current and valid Certificate of Workers' Compensation Insurance or Certification of Self-Insurance. A Certificate of Workers' Compensation Insurance shall be issued and filed, electronically or otherwise, by one or more insurers duly licensed to write workers' compensation insurance in this state. A Certification of Self-Insurance shall be issued and filed by the Director of Industrial Relations. If reciprocity conditions exist, as defined in Section 3600.5 of the Labor Code, the registrar shall require the information deemed necessary to ensure compliance with this section.

(b) This section does not apply to an applicant or licensee who meets both of the following conditions:

(1) Has no employees provided that he or she files a statement with the board on a form prescribed by the registrar prior to the issuance, reinstatement, reactivation, or continued maintenance of a license, certifying that he or she does not employ any person in any manner so as to become subject to the workers' compensation laws of California or is not otherwise required to provide for workers' compensation insurance coverage under California law.

(2) Does not hold a C-39 license, as defined in Section 832.39 of Title 16 of the California Code of Regulations.

(c) No Certificate of Workers' Compensation Insurance, Certification of Self-Insurance, or exemption-certificate is required of a holder of a license that has been inactivated on the official records of the board during the period the license is inactive.

(d) The insurer, including the State Compensation Insurance Fund, shall report to the registrar the following information for any policy required under this section: name, license number, policy number, dates that coverage is scheduled to commence and lapse, and cancellation date if applicable.

(e) (1) For any license that, on January 1, 2011, is active and includes a C-39 classification in addition to any other classification, the registrar shall, in lieu of the automatic license suspension otherwise required under this article, remove the C-39 classification from the license unless a valid Certificate of Workers' Compensation Insurance or Certification of Self-Insurance is received by the registrar.

(2) For any licensee whose license, after January 1, 2011, is active and has had the C-39 classification removed as provided in paragraph (1), and who is found by the registrar to have employees and to lack a valid Certificate of Workers' Compensation Insurance or Certification of Self-Insurance, that license shall be automatically suspended as required under this article.

(f) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 2. Section 7125 of the Business and Professions Code, as added by Section 2 of Chapter 38 of the Statutes of 2006, is amended to read:

7125. (a) The board shall require as a condition precedent to the issuance, reinstatement, reactivation, renewal, or continued maintenance of a license, that the applicant or licensee have on file at all times a current and valid Certificate of Workers' Compensation Insurance or Certification of Self-Insurance. A Certificate of Workers' Compensation Insurance shall be issued and filed, electronically or otherwise, by one or more insurers duly licensed to write workers' compensation insurance in this state. A Certification of Self-Insurance shall be issued and filed by the Director of Industrial Relations. If reciprocity conditions exist, as defined in Section 3600.5 of the Labor Code, the registrar shall require the information deemed necessary to ensure compliance with this section.

(b) This section does not apply to an applicant or licensee who has no employees provided that he or she files a statement with the board on a form prescribed by the registrar prior to the issuance, reinstatement, reactivation, or continued maintenance of a license, certifying that he or she does not employ any person in any manner so as to become subject to the workers' compensation laws of California or is not otherwise required to provide for workers' compensation insurance coverage under California law.

(c) No Certificate of Workers' Compensation Insurance, Certification of Self-Insurance, or exemption-certificate is required of a holder of a license that has been inactivated on the official records of the board during the period the license is inactive.

(d) The insurer, including the State Compensation Insurance Fund, shall report to the registrar the following information for any policy required under this section: name, license number, policy number, dates that coverage is scheduled to commence and lapse, and cancellation date, if applicable.

(e) This section shall become operative on January 1, 2013.

SEC. 3. Section 11665 of the Insurance Code is amended to read:

11665. (a) An insurer who issues a workers' compensation insurance policy to a roofing contractor holding a C-39 license from the Contractors State License Board shall perform an annual payroll audit for the contractor. The insurer may impose a surcharge on each policyholder audited under this subdivision in an amount necessary to recoup the reasonable costs of conducting the annual payroll audits.

(b) The commissioner shall direct the rating organization designated as his or her statistical agent to compile pertinent statistical data on those

holding C-39 licenses, as reported by the appropriate state entity, on an annual basis and provide a report to him or her each year. The data shall track the total annual payroll and loss data reported on those holding C-39 licenses in accordance with the standard workers' compensation insurance classifications applicable to roofing operations. The report shall also be provided to the Legislature, in compliance with Section 9795 of the Government Code. Reports required under this section for the 2008 and 2009 calendar years shall be filed by March 1, 2012.

(c) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.